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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,054	02/18/2004	James Burghoffer	BURGHOFFER 3.0-003	8384
28885	7590	04/14/2006	EXAMINER	
WEINGRAM & ASSOCIATES P.C. P.O. BOX 927 MAYWOOD, NJ 07607			BALSIS, SHAY L	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 04/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/781,054

Applicant(s)

BURGHOFFER, JAMES

Examiner

Shay L. Balsis

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 9-11 is/are allowed.
- 6) ☒ Claim(s) 2 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/15/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: Page 6, line 23 states "Passages 128 and 120" however it should be ---Passages 128 and 130---.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Leibow (USPN 4528712).

Leibow teaches a painting apparatus comprising a handle (16) and a frame (14). A separator guide blade (42) extends from the frame. There is an applicator pad (24) adapted to apply a coating to a surface pivotally mounted to the frame (figure 7). There is an actuator means (54) connected to the applicator pad to move the pad from a closed position abutting the guide blade (drawn in phantom figure 7) to an open position remote from the guide blade (drawn in solid lines on figure 7). When in the open position, the applicator pad can be loaded with a coating. The handle is removably connected to the frame since they are not formed integrally.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leibow (USPN 4528712) in view of Jang et al. (USPN 5860902).

Leibow teaches all the essential elements of the claimed invention however fails to teach that the handle includes an extension coupling for connecting the frame to a pivoting extension pole. Jang teaches a paint roller with a handle (152) comprising an extension coupling (figure 5a, elements 150 and 156 where 150 is received into the bottom end of the handle as shown in figure 1a) that is pivotally connected (154, 156) to the handle (figure 5c). It would have been obvious to modify Leibow's painting device handle to comprise an extension coupling for a pivoting extension pole as taught by Jang so that the paint device can be used to reach multiple heights and to adjust the direction of the painting device as well as the painting angle (col. 2, lines 58-62, col. 3, lines 1-13).

#### ***Allowable Subject Matter***

Claims 1, 9-11 are allowed.

Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 includes the limitations of an edging apparatus comprising a frame with a guide slot. There is a guide blade mounted in the guide slot. There are spring units connected to the frame and guide blade to resilient urge the blade to an extended position. There are two applicator plates with paint pads that are each pivotally mounted to the frame. There is a spring

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urging the plates from a closed position abutting the blade to an open position remove from the blade. There are actuating fingers on the plates to pivotally move the plates from the open to closed position.

Claim 3, includes the limitation that the actuator means comprises multiple applicator plates, finger means on the plates and spring means connecting the plates and frame.

Claim 4, includes the limitation that the frame has a guide slot for the guide blade and springs disposed in the frame to urge the blade outward from the frame.

Claim 9 and 11 include the limitations of an edging apparatus comprising a frame, a pad connected to the frame and a guide blade. The pad is pivoted remote from the blade, paint is applied to the blade and the pad is then pivotally moved to a position abutting the blade.

None of the prior art teaches these limitations nor would it have been obvious to modify or combine the prior art to achieve the claimed invention since none of the reference teach or suggest any motivation for doing so.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SLb  
4/6/06



GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER